

# Torys on Climate Change

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## New Developments in Ontario

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On May 27, 2009, the Ontario government announced further steps toward its goal of implementing a greenhouse gas (GHG) cap-and-trade system by as early as 2012. It introduced a bill that would expand the government's regulation-making authority to implement a cap-and-trade system. It also published an updated discussion paper highlighting how such a system might take shape.

### Cap-and-trade framework amendments

The Ontario government has introduced Bill 185, the *Environmental Protection Amendment Act (Greenhouse Gas Emissions Trading), 2009*, for first reading. Bill 185 would amend the *Environmental Protection Act* (EPA) to more clearly define the government's authority to make market-based regulations for environmental protection. In particular, the bill would expand on the government's existing authority to develop emissions trading and other market-based regulations, which the Ministry of the Environment (MOE) has already used to implement a cap-and-trade system for nitrogen oxides and sulphur dioxide. The amendments would explicitly provide for regulations governing how environmental credits are created, allocated, traded and retired; how credits created in other jurisdictions could be traded into and used in Ontario; how emissions are attributed to a regulated entity; and how such entities must monitor and report their emissions. The expanded authority would also allow the government to allocate GHG emissions allowances for free or by auction, sale or other means.

The MOE is accepting comments on the bill until July 26, 2009. For further information, please see [www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTA2Mzk3&statusId=MTU5NTYy](http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTA2Mzk3&statusId=MTU5NTYy).

### Cap-and-trade discussion paper

To further develop its cap-and-trade policies, the government released an updated discussion paper titled "Moving Forward: A Greenhouse Gas Cap-and-Trade System for Ontario." Building on the December 2008 publication, which was described in Torys' January [Environmental, Health and Safety Bulletin](#), the new discussion paper summarizes the public comments that the MOE has received since that time, and proposes policy options for a future cap-and-trade system in Ontario.

In general, the discussion paper suggests policy options that would harmonize any Ontario system with those of its partners in the Western Climate Initiative (WCI), a collaboration of U.S. states and Canadian provinces to develop a regional cap-and-trade system by January 1, 2012. The discussion paper also acknowledges federal proposals in both Canada and the United States – particularly the Waxman-Markey bill in the latter, which, as currently drafted, could see a U.S. national cap-and-trade system take effect as early as 2012. As such, the discussion paper focuses on policy

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options that could align not only with the WCI, but also with any U.S. federal system that might come into force.

Among the policy questions the discussion paper raises is how broadly Ontario's cap will be applied. The paper generally favours broad application; one proposal is to initially cover GHG emissions from electricity generation and importation, large industrial and commercial sources and industrial processes, before phasing in coverage for emissions from transportation and small residential, commercial and industrial fuel consumption. This scope would be consistent with that proposed by the WCI. The paper also offers an alternative scope, which would initially cover the emissions of electricity producers and upstream producers and importers of carbon-based fuels that emit more than 25 kilotonnes of carbon dioxide equivalent per year, before phasing in coverage for emissions from downstream industrial sources that emit more than this threshold and emissions from natural gas distribution.

The discussion paper also considers how to determine a target for emissions reductions, including which years should be used as a baseline for the province's targets and whether these target should be economy-wide or specific to certain industries. Once these targets are in place, the paper suggests that Ontario will look to auction at least some of the available emissions allowances. Also presented for discussion are details about such auctions, including how the revenue will be used and whether the auction will involve a reserve price to prevent the over-allocation of allowances. Furthermore, according to the paper, allowances may be issued for free in sectors that would be especially vulnerable to the cost of complying with the cap, or to those entities that demonstrate they took early action to reduce their GHG emissions before the cap came into force.

Another key point of discussion is the ability of entities outside the capped sectors to earn credits (known as "offset credits") by voluntarily reducing or removing GHG emissions. The discussion paper clearly suggests that a future Ontario cap-and-trade system would allow capped entities to purchase these credits to satisfy a certain percentage of their compliance obligations. The exact percentage, however, remains open for discussion, as do the kinds of projects that would qualify for offset credits and the verification procedures that would be used to ensure that emissions reductions have been achieved in addition to those that would have occurred without the incentive of the cap-and-trade system.

The discussion paper also highlights policy options on how and when entities should report their emissions and on how the government could hasten the province's transition to a low-carbon economy. The MOE is accepting comments on the discussion paper until July 26, 2009.

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